



Federal Communications Commission
Washington, D.C. 20554

October 11, 2002

VIA FACSIMILE AND FIRST-CLASS U.S. MAIL

Ms. Leigh Roderick
Williams Communications, LLC
One Technology Center
Tulsa, Oklahoma 74103

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555 13th Street, N.W.
Washington, D.C. 20004

Re: Applications Before the Wireless Telecommunications Bureau and the
Wireline Competition Bureau Requesting Special Temporary Authority

Dear Ms. Roderick and Mr. Martin:

We have before us applications filed by Williams Communications, LLC ("Williams") requesting Special Temporary Authority ("STA"), pursuant to sections 214 and 309(f) of the Communications Act of 1934, as amended ("the Act"),¹ and sections 1.931 and 63.04 of the Commission's rules,² to transfer control of the twenty-nine Wireless Radio Services licenses and domestic section 214 authorizations (collectively, "FCC Authorizations") held by Williams. Williams seeks to transfer control of the FCC Authorizations from its corporate parent Williams Communications Group, Inc., as Debtor-in-Possession ("Williams Group DIP") to a new corporate parent WilTel Communications Group, Inc. ("WilTel").³ Specifically, Williams

¹ 47 U.S.C. §§ 214, 309(f).

² 47 C.F.R. §§ 1.931, 63.04. *See also* 47 C.F.R. § 0.91(a), (f).

³ *See* Williams Communications, LLC, Williams Communications Group, Inc., Debtor-in-Possession, and WilTel Communications Group, Inc. Request for Special Temporary Authority. ULS File Nos. 0001047955 (Oct. 3, 2002) (WLM388) (lead); 0001047989 (Oct. 3, 2002) (WLN645); 0001048047 (Oct. 3, 2002) (WLN646); 0001048009 (Oct. 3, 2002) (WLN647); 0001048012 (Oct. 9, 2002) (WLN649); 0001048026 (Oct. 3, 2002) (WLN651); 0001048058 (Oct. 9, 2002) (WML462); 0001048357 (Oct. 4, 2002) (WMQ353); 0001048569 (Oct. 4, 2002) (WMQ354); 0001048728 (Oct. 4, 2002) (WMQ838); 0001048596 (Oct. 4, 2002) (WMQ839); 0001048745 (Oct. 4, 2002) (WMR578); 0001048863 (Oct. 4, 2002) (WNTQ351); 0001049029 (Oct. 4, 2002) (WNTQ352); 0001049053 (Oct. 4, 2002) (WNTQ353); 0001053223 (Oct. 9, 2002) (WNTQ354); 0001049118 (Oct. 9, 2002) (WNTQ355); 0001049178 (Oct. 4, 2002) (WNTQ357); 0001049202 (Oct. 4, 2002) (WNTQ358); 0001049264 (Oct. 4, 2002) (WNTQ359); 0001048787 (Oct. 4, 2002) (WPJZ982); 0001048768 (Oct. 4, 2002) (WPNH929); 0001049340 (Oct. 9, 2002) (WPOL527); 0001049281 (Oct. 4, 2002) (WPOL592); 0001049321 (Oct. 9, 2002) (WPOL728); 0001048802 (Oct. 4, 2002) (WPOM433); 0001048637 (Oct. 4, 2002) (WPON426); 0001049347 (Oct. 4, 2002) (WPOU639); 0001049368 (Oct. 4, 2002) (WPOV252) ("WTB STA Request"). *See also* Williams Communications,

desires to implement the same corporate structure proposed in the transfer of control applications filed on September 27, 2002.⁴ Williams requests that the STA be effective for 180 days or until the Commission acts on the transfer of control application, whichever is earlier.⁵ For the reasons discussed herein, we **grant** Williams' request with respect to the FCC Authorizations to the extent described herein.

By way of background, Williams operates as a provider of domestic telecommunications services pursuant to the blanket section **214** authority granted in section 63.01(a) of the Commission's rules. It also holds twenty-nine Wireless Radio Services licenses (including Common Carrier Fixed Point-to-Point Microwave, Local Television Transmission, Industrial/Business Pool, and Private Operational Fixed Microwave Services licenses).⁶ Williams states that it utilizes the FCC Authorizations in connection with the provision of voice services to more than 5.6 million residential and business access lines; wholesale vendor services to large telecommunications companies; private line, data; a major portion of the Internet services provided to interexchange carriers, Internet service providers, and others; the country's most extensive Internet backbone; more than two million square feet of collocation and data center space; and the largest live video transport service in the United States, carrying more than eighty percent of all major professional sports and sixty-five percent of all live news events.'

On April 22, 2002, Williams' parent company, Williams Communications Group, Inc. ("Williams Group"), filed for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court").⁷ The Commission's rules required Williams to notify us of such occurrence within thirty days. For the Wireless Radio Services licenses, Williams was required to file an application seeking consent to the involuntary transfers of control.⁸ Williams failed to do so, however, until September 27, 2002.¹⁰ Concurrently, it filed applications seeking Commission consent to transfer control of the

LLC, Williams Communications Group, Inc., Debtor-in-Possession, and WilTel Communications Group, Inc. Request for Special Temporary Authority for the Transfer of Control of Domestic Section 214 Authority. WC Docket No. 02-320 (Oct. 8, 2002) ("WCB STA Request").

⁴ See Williams Communications, LLC Application, ULS File No. 0001042091 (Sept. 27, 2002) (underlying application for consent to transfer control of Wireless Radio Services licenses): WTB Report No. 1300 (rel. Oct. 2, 2002) (establishing public comment period); see also Williams Communications, LLC Application for Consent to Transfer of Control, filed Sept. 27, 2002; Domestic Section 214 Application Filed for Consent to Transfer Control of Williams Communications, LLC Streamlined Pleading Cycle Established, WC Docket No. 02-320, DA 02-2580 (rel. Oct. 8, 2002) (establishing public comment period for underlying application for consent to transfer control of domestic 214 authorizations).

⁵ See WTB STA Request at 2

⁶ See WCB STA Request at 2-3.

⁷ See WTB STA Request at 3, 10

⁸ See *In re Williams Communications Group, Inc. and CG Ausrii, Inc.*, Chapter 11 Case No. 02-11957 (BRL) (U.S. Bankruptcy Court S.D.N.Y.).

⁹ See 47 C.F.R. § 1.948(c)(2); see also 47 C.F.R. §§ 1.948(g), 101.55(a)(2).

¹⁰ See Williams Communications, LLC Application, ULS File No. 0001042114 (Sept. 27, 2002).

FCC Authorizations from Williams Group DIP to WilTel in connection with the proposed emergence from bankruptcy."

Williams states in both STA requests that the lenders and creditors of Williams Group DIP require that the Plan of Reorganization, which was confirmed by the Bankruptcy Court on September 30, 2002,¹² be consummated no later than October 15, 2002.¹³ We note, as an initial matter, that we cannot take action on the transfer of control applications by such date because the public comment period required by the Act and the Commission's rules for such transaction will not have been completed.' As a result, Williams has filed the STA requests as an interim measure until permanent approvals can be obtained.¹⁵

In support of its STA requests, Williams contends that grant of the STA requests are necessary to "avoid the substantial disruption of service to customers that otherwise could arise as a result of any failure to consummate the [Plan of Reorganization] by October 15."¹⁶ According to Williams, failure to grant the requested special temporary authority to permit consummation of the proposed transfer of control by October 15, 2002 will engender "a significant risk that Williams may be forced by events to seek to discontinue service to the public." This is so, Williams explains, because over fifty of the financial institutions that are parties to the Williams Group DIP Plan of Reorganization will have the legal right to withdraw from the associated agreements.¹⁸ Further, Williams argues that the STA is necessary to preserve competition¹⁹ and that the Commission should recognize the extreme difficulty of accomplishing such a restructuring in bankruptcy in light of the current unfavorable financial environment.²⁰ We have also received letters from certain of Williams Group DIP lenders and creditors involved in the reorganization, each supporting the STA requests and confirming the necessity of the STA to protect the continuity of service."

¹¹ See Williams Communications. LLC Application, ULS File No. 0001042091 (Sept. 27, 2002).

¹² See WTB STA Request at 2; see also Order Confirming Second Amended Joint Plan of Reorganization of Williams Communications Group, Inc. and CG Austria, Inc., *In re Williams Communications Group, Inc. and CG Austria, Inc.*, Chapter 11 Case No. 02-1 1957 (BRL) (U.S. Bankruptcy Court S.D.N.Y. Sept. 30, 2002).

¹³ See *id.* at 2,

¹⁴ See 47 U.S.C. §§ 309(b), 1.945(b)

¹⁵ See WTB STA Request at 2-5

¹⁶ *Id.* at 2.

¹⁷ *Id.* at 3

¹⁸ See *id.* at 3-4.

¹⁹ See *id.* at 3

²⁰ See *id.* at 5, 16.

²¹ See Letter from Mark D. Schneider and Anita L. Wallgren, Sidley Austin Brown & Wood LLP. Counsel for Leucadia National Corporation. to Marlene H. Dortch, Secretary, FCC. dated Oct. 4, 2002; Letter from Richard L. Wynne, Kirkland & Ellis, Attorneys for the Official Committee of Unsecured Creditors, to Marlene H. Donch. Secretary, FCC, dated Oct. 3, 2002; Letter from Andrew D. Lipman and Troy F. Tanner, Swidler Berlin Shereff

Decision. Based on the information currently before us, we conclude that it is in the public interest to grant the WTB and WCB STA Requests and permit the Williams Group DIP to consummate the proposed transaction during the pendency of the transfer of control applications regarding the FCC Authorizations. Notwithstanding our decision here, we do not condone the apparent disregard of the basic requirements of the Act and the Commission's rules in connection with the negotiation of the proposed transaction and the conduct of the licensee before the Commission. After considering the totality of the circumstances presented, however, we conclude that the equities of this particular situation warrant grant of authority to the limited extent indicated herein. It should be noted that our grant of such temporary authority is without prejudice to the ultimate disposition of the transfer of control applications and any appropriate enforcement proceedings for failure to adhere to the Commission's processes. This is not the first time that the Commission has been faced in recent months with a licensee that has neglected to consider its obligations under the Commission's rules. We reiterate that licensees are required to comply with all aspects of their obligations under the Act and the Commission's rules, including those pertaining to appropriate timing and filing obligations for licensees.

Our overriding concern in this case is to protect against undue risk of loss of service. We believe that a failure to grant the WTB and WCB STA Requests would substantially increase the likelihood of significant future service disruptions by virtue of the ability of parties to the transaction to opt out after October 15, 2002. Further, according to Williams, there is a significant risk that failure of this transaction to close would force Williams into a precarious financial situation that could result in discontinuance of vital services that it currently provides.²³ In granting this relief, however, we are not wholly convinced that the need for the STA could not have been avoided by more diligent efforts on the part of Williams and the other parties involved. Nonetheless, based on the record as a whole, we believe that the STA is necessary to avoid undue risk of significant service disruptions, which would be to the detriment of millions of customers. The need to protect the public from such extreme disruptions of service is of paramount importance, and we give it great weight in our determination to grant this authority.

In sum, we conclude that the considerations favoring issuance of an STA outweigh the factors militating against issuance of an STA. We are persuaded based on the record before us that the public interest would be served by grant of the WTB and WCB STA Requests because of the likelihood of discontinuance of service to Williams' facilities, which serve millions of end users in many different telecommunications and media-related services.²⁴ We also believe that

Friedman, LLP, Counsel for Bank of America, N.A., Administrative Agent for the Lenders, to Marlene H. Dortch, Secretary, FCC, dated Oct. 3, 2002.

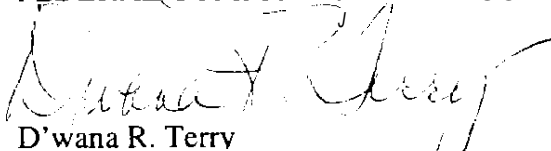
²³ See WTB STA Request at 13.

²⁴ Pursuant to section 309(f) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(f), and section 1.931 of the Commission's rules, 47 C.F.R. § 1.931, an STA for Wireless Radio Services may be granted upon a finding that there are "circumstances which are of such extraordinary nature that delay in the institution of temporary operation would seriously prejudice the public interest." 47 C.F.R. § 1.931(b)(2)(v). See also 47 C.F.R. § 1.931(a)(2)(iv).

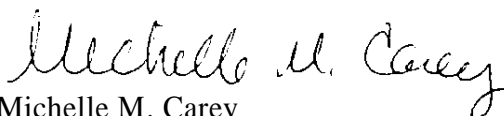
such grant should be limited and subject to certain conditions. These conditions are warranted both to ensure that the STA in this case does not operate to undermine our application requirements, and to underscore our unwillingness to grant STA requests routinely as an expedient for parties that have neglected to **file** required assignment of license or transfer of control applications sufficiently in advance of their contemplated closing dates.

Therefore, we grant special temporary authority for transfer of control of the FCC Authorizations subject to the following conditions. The authority expires at 12:01 a.m. on October 16, 2002 if the parties do not consummate the transaction on or before October 15, 2002. the date represented to us as being critical to facilitating continuity of **service**.²⁵ Assuming that the proposed transaction is consummated on or before October 15, 2002. this STA will expire at 12:01 a.m. January 9, 2003, which is ninety days from the date of this letter. or upon disposition of the transfer of control applications, whichever is **earlier**.²⁶ Williams must report the status of the consummation of this transaction, in writing to the undersigned, before close of business on October 16, 2002. In addition, Williams must, for the duration of this STA and any extensions thereof, provide substantially the same service currently provided and described in the STA requests.

FEDERAL COMMUNICATIONS COMMISSION



D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau



Michelle M. Carey
Chief, Competition Policy Division
Wireline Competition Bureau

²⁵ Thus, if the parties are unable to consummate the transaction **on** or before October 15, 2002, it **is** our intention that they not consummate until we have taken action on the transfer of control applications (assuming that such action **is** a grant thereof).

²⁶ We also caution Williams to be mindful of and adhere to the Commission's rules regarding extension of **this** special temporary authority in the event they should seek to extend this authorization.